

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TREMAIN VERNON JONES,

Plaintiff,

Hon. Gordon J. Quist

v.

Case No. 1:10-CV-568

KENNETH SMITH, et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiff's Motion for Transfer to a New Facility. (Dkt. #185). Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff's motion be **denied**.

BACKGROUND

Plaintiff initiated this action on June 15, 2010, four prison officials alleging violations of his constitutional rights. Plaintiff subsequently amended his complaint on three occasions, the last such amendment occurring on January 3, 2012. Plaintiff now moves for entry of an order transferring him to federal custody for an unspecified amount of time. Plaintiff asserts that such a transfer is necessary because he has been threatened with physical harm by other prisoners.

Injunctive relief is "an extraordinary remedy which should be granted only if . . . the circumstances clearly demand it." *Overstreet v. Lexington-Fayette Urban County Gov't*, 305 F.3d 566, 573 (6th Cir. 2002). To obtain injunctive relief, Plaintiff must first show that he "is being threatened

by some injury for which he has no adequate legal remedy.” *Dana Corp. v. Celotex Asbestos Settlement Trust*, 251 F.3d 1107, 1118 (6th Cir. 2001) (citations omitted). If such is the case, the court must then examine several factors: (1) whether the movant is likely to prevail on the merits, (2) whether the movant would suffer irreparable injury if the court does not grant the injunction, (3) whether a preliminary injunction would cause substantial harm to others, and (4) whether a preliminary injunction would be in the public interest. *See Samuel v. Herrick Memorial Hospital*, 201 F.3d 830, 833 (6th Cir. 2000).

Rather than prerequisites which must each be satisfied, the relevant factors, none of which are dispositive, are competing considerations to be weighed and balanced. *See Six Clinics Holding Corp., II v. Cafcomp Systems, Inc.*, 119 F.3d 393, 400 (6th Cir. 1997); *Michigan Bell Telephone Co. v. MFS Intelenet of Michigan, Inc.*, 16 F.Supp.2d 828, 831 (W.D.Mich. 1998). Ultimately, the decision whether to grant injunctive relief lies within the court’s discretion. *See Dana Corp.*, 251 F.3d at 1118 (the “most significant single component” in the decision whether to grant injunctive relief “is the court’s discretion”) (citations omitted).

Plaintiff has failed to establish that he would suffer irreparable injury in the absence of an injunction. While the Court is not unsympathetic to Plaintiff’s claim that he has been threatened by other prisoners, Plaintiff acknowledges that as a result of such threats he has been placed in protective custody. The Court further concludes that the public interest would not be served by judicial interference in the day-to-day operations of a correctional facility in the absence of evidence supporting such. Accordingly, the undersigned recommends that Plaintiff’s motion for injunctive relief be **denied**.

CONCLUSION

For the reasons articulated herein, the undersigned recommends that Plaintiff's Motion for Transfer to a New Facility, (dkt. #185), be **denied**.

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: June 14, 2013

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge